

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

SHANNON TERRELL TORRENCE

PLAINTIFF

v.

Civil No. 4:20-cv-04062

SHERIFF OBIE SIMS; LAFAYETTE COUNTY
SHERIFF'S DEPARTMENT; THEARDIS EARLY;
and LAFAYETTE COUNTY, ARKANSAS

DEFENDANTS

ORDER

Before the Court is a Motion to Dismiss filed by Separate Defendant Lafayette County Sheriff's Office. ECF No. 13. Plaintiff has not responded, and the time to do so has passed. The Court finds the motion ripe for consideration.

This is a civil rights action filed by Plaintiff pursuant to 42 U.S.C. § 1983, which centers around events that allegedly happened while he was incarcerated at the Lafayette County Detention Center. Plaintiff alleges that Defendants were deliberately indifferent to his medical needs, denied him due process under the Fourteenth Amendment, and violated the Arkansas Civil Rights Act.

Separate Defendant Lafayette County Sheriff's Office argues that it should be dismissed from this lawsuit because it is not an entity that is subject to suit under § 1983. The sheriff of an Arkansas county is an elected official under Ark Code Ann. § 14-14-1301(a)(5). However, there is no Arkansas statute that empowers a "sheriff's office" to sue or be sued or establishes the office as a body corporate. Under Arkansas law, "[a]bsent statutory authority or incorporation," an artificial entity has no capacity to sue or be sued. *See Fausett and Co., Inc. v. Bogard*, 285 Ark. 124, 126, 685 S.W.2d 153, 155 (1985). Therefore, the Lafayette County Sheriff's Office is not an entity capable of being sued. *See Wade v. Tompkins*, 73 Fed. Appx. 890, 893 (8th Cir. 2003) (citing *Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992)) (noting that sheriff's departments

are not usually considered legal entities subject to suit under § 1983).

Accordingly, the Court finds that Separate Defendant Lafayette County Sheriff's Department's Motion to Dismiss (ECF No. 13) should be and hereby is **GRANTED**. Lafayette County Sheriff's Department is dismissed as a Defendant in this case.

IT IS SO ORDERED, this 20th day of April, 2021.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge